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 9 NEO4J, INC. and NEO4J SWEDEN AB

10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12 NEO4J, INC., a Delaware corporation, and
 13 NEO4J SWEDEN, AB, a Swedish
 13 corporation,

14 Plaintiffs,

15 v.

16 PURETHINK LLC, a Delaware limited
 17 liability company, IGOV INC., a Virginia
 17 corporation, and JOHN MARK SUHY, an
 18 individual,

19 Defendants.

20 AND RELATED COUNTERCLAIMS.

21 NEO4J, INC., a Delaware corporation, and
 22 NEO4J SWEDEN AB, a Swedish
 22 corporation,

23 Plaintiffs,

24 v.

25 GRAPH FOUNDATION, INC., an Ohio
 26 corporation, GRAPHGRID, INC., an Ohio
 26 corporation, and ATOMRAIN INC., a
 27 Nevada corporation,

28 Defendants.

CASE NO. 5:18-cv-07182-EJD

**DECLARATION OF JEFFREY M.
 RATINOFF IN SUPPORT OF
 STIPULATION AND [PROPOSED]
 ORDER FOR SECOND MODIFICATION
 OF THE PHASE 1 CASE SCHEDULE**

CASE NO. 5:19-cv-06226-EJD

1 I, Jeffrey M. Ratinoff, declare as follows:

2 1. I am an attorney duly licensed to practice law before all courts in the State of
 3 California. I am an attorney with Hopkins & Carley, a Law Corporation, counsel of record for
 4 Plaintiffs and Counter-Defendants Neo4j, Inc. and Neo4j Sweden AB (collectively, "Plaintiffs" or
 5 "Neo4j"). I make this declaration in support of the Stipulation and [Proposed] Order for Second
 6 Modification of the Phase 1 Case Schedule.

7 2. I have personal knowledge of the matters set forth herein except as to those
 8 matters set forth on information and belief, and as to those, I am informed and believe them to be
 9 true, and could and would competently testify thereto. By making the statements in this
 10 declaration, neither Plaintiffs nor I intend to waive the protections of the attorney-client privilege
 11 or attorney work product doctrine.

12 3. On December 5, 2019, the Court ordered the above-captioned actions be related.
 13 *See PureThink Action, Dkt. No. 53.*

14 4. At the March 5, 2020 Joint Case Management Conference for both actions, the
 15 Parties discussed with the Court a proposal to allow the parties to focus on completing discovery
 16 and filing dispositive motions on their respective trademark-related claims, counterclaims and
 17 defenses in both actions. In doing so, the parties would be allowed to depart from the Court's
 18 one-summary judgment motion rule in both actions. That same day the Court vacated the then-
 19 existing case schedule in the PureThink Action. *See PureThink Action, Dkt. No. 66.*

20 5. On April 10, 2020, the Court granted the parties' stipulation concerning the claims,
 21 counterclaims and affirmative defenses ("Phase 1 Issues") that would be subject to the first
 22 motions for summary judgment/adjudication filed by each party. *See PureThink Action, Dkt. No.*
 23 *68; GFI Action, Dkt. No. 45.* This stipulation also set forth the case schedule for Phase 1 in both
 24 the GFI Action and PureThink Action. *See id.*

25 6. On July 16, 2020, the Court granted the parties' stipulation adjusting the Phase 1
 26 schedule to allow the Court sufficient time to rule on Neo4j USA's motion to dismiss challenging
 27 the viability of PureThink Defendants' trademark abandonment counterclaim and affirmative
 28 defense. *See PureThink Action, Dkt. No. 82; GFI Action, Dkt. No. 63.*

7. On August 21, 2020, the Defendants in the GFI Action filed motions to dismiss certain claims asserted against them in the FAC. See GFI Action, Dkt. Nos. 74-75. These motions are currently set to be heard by this Court on October 29, 2020, which is three days after the deadline for Plaintiffs to file their consolidated motion for summary judgment on the Phase 1 Issues. *See* PureThink Action, Dkt. No. 82; *see also* GFI Action, Dkt. No. 63.

8. Because the Court's ruling on GFI's pending motion to dismiss may affect the scope of the Phase 1 Issues, the parties have agreed that the briefing schedule and hearing for Phase 1 should be modestly extended to allow the Court time to rule on GFI's motion and for the parties to settle the pleadings, if necessary, thereafter. The parties have further agreed that such an extension is in the interest of judicial economy because it may potentially streamline the Phase 1 Issues subject to the Phase 1 summary judgement proceedings.

9. The parties also have agreed that because several outstanding Phase 1 fact discovery issues remain unresolved, the September 21, 2020 deadline for the parties to seek any necessary relief via discovery motions should be extended. Likewise, the parties have agreed to allow Plaintiffs to schedule the previously noticed Rule 30(b)(6) depositions of GFI and iGov Inc. after the September 14, 2020 fact discovery cutoff, and that the depositions shall be scheduled and completed by October 23, 2020.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 9th day of September, 2020 at San Jose, California.

/s/ Jeffrey M. Ratinoff
Jeffrey M. Ratinoff